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<b>NEW UTILITY PATENT APPLICATION TRANSMITTAL</b> <small>(only for new nonprovisional applications under 37 CFR 1.53(b))</small>		Attorney Docket Number	23340-08598
		First Named Inventor	Shaoher X. Pan
		Title	Fabrication of a Reflective Spatial Light Modulator
		Express Mail Label No.	EV 334259662 US

<b>APPLICATION ELEMENTS</b>		<b>ACCOMPANYING APPLICATION PARTS</b>	
<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form (in duplicate)</p> <p>2. <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p> <p>3. <input checked="" type="checkbox"/> Specification <span style="float: right;">Total Pages <span style="border: 1px solid black; padding: 2px;">36</span></span> (preferred arrangement set forth below)  <input type="checkbox"/> Descriptive Title of the Invention  <input type="checkbox"/> Cross Reference(s) to Related Case(s)  <input type="checkbox"/> Statement Regarding Fed sponsored R &amp; D  <input type="checkbox"/> Background of the Invention  <input type="checkbox"/> Brief Summary of the Invention  <input type="checkbox"/> Brief Description of the Drawing(s)  <input type="checkbox"/> Detailed Description  <input type="checkbox"/> Claim or Claims  <input type="checkbox"/> Abstract of the Disclosure</p> <p>4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) <span style="float: right;">Total Sheets <span style="border: 1px solid black; padding: 2px;">17</span></span></p> <p>5. Oath or Declaration</p> <p>a. <input checked="" type="checkbox"/> New Declaration <span style="float: right;">Total Pages <span style="border: 1px solid black; padding: 2px;">5</span></span>  <input checked="" type="checkbox"/> Executed (original or copy)</p> <p>b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional with Box 18 completed)  i. <input type="checkbox"/> DELETION OF INVENTOR(S)  Signed statement attached deleting inventor(s)  named in the prior application, see 37 CFR  1.63(d)(2) and 1.33(b).</p> <p>6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76</p>		<p>7. <input checked="" type="checkbox"/> Assignment Papers (cover sheet &amp; document(s))</p> <p>8. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign priority is claimed)</p> <p>9. <input type="checkbox"/> Power of Attorney or Authorization of Agent</p> <p>10. <input type="checkbox"/> 37 CFR 3.73(b) Statement</p> <p>11. <input type="checkbox"/> Preliminary Amendment</p> <p>12. <input type="checkbox"/> Information Disclosure Statement &amp; PTO/SB/08A  <input type="checkbox"/> Copies of IDS Citation(s)</p> <p>13. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122  (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent</p> <p>14. <input checked="" type="checkbox"/> Return Postcard</p> <p>15. <input checked="" type="checkbox"/> Petition by Person Having Proprietary Interest to File Application on Behalf of Inventor(s) Who Refuse to Sign or Cannot be Found (37 CFR  \$1.47(b))</p> <p>16. <input checked="" type="checkbox"/> Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 CFR §1.47)</p> <p>17. <input checked="" type="checkbox"/> Statement Establishing Proprietary Interest by Person Signing on Behalf of Nonsigning Inventor</p>	

**ADDRESS TO:**

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

18. If a **CONTINUING APPLICATION**, check appropriate box and supply the requisite information below and in a preliminary amendment or in an Application Data Sheet under 37 CFR 1.76:

Continuation  Divisional  Continuation-in-part (CIP) of prior application No:10/378,041

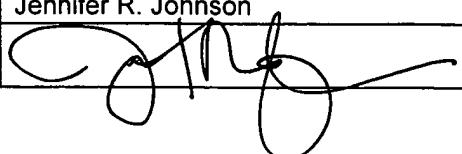
Prior application information: Examiner: Allan W. Olsen Group/Art Unit: 1763

For **CONTINUATION OR DIVISIONAL APPS** only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuing or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

**19. CORRESPONDENCE ADDRESS**

00758

Customer Number

Name (Print/Type)	Jennifer R. Johnson	Registration No. (Attorney/Agent)	50,784
Signature			Date
			January 13, 2004

22581 U.S.PTO  
10/25/04 23

011304

# FEE TRANSMITTAL for FY 2004

Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** **\$ 555.00**

Complete if Known	
Application Number	Unassigned
Filing Date	Herewith
First Named Inventor	Shaoher X. Pan
Examiner Name	Unknown
Art Unit	Unknown
Attorney Docket No.	23340-08598

## METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  Other  None  
 Deposit Account:

Deposit Account Number **19-2555**  
 Deposit Account Name **Fenwick & West LLP**

The Commissioner is authorized to: (check all that apply)  
 Charge fee(s) indicated below  Credit any overpayments  
 Charge all required fee(s) or any underpayment of fee(s) due under 37 CFR §1.16 or §1.17 during the pendency of this application  
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity	Small Entity	Fee	Fee	Fee Description	Fee Paid
Code (\$)	Code (\$)	Fee	Fee	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	385.00		
1002 340	2002 170	Design filing fee			
1003 530	2003 265	Plant filing fee			
1004 770	2004 385	Reissue filing fee			
1005 160	2005 80	Provisional filing fee			
<b>SUBTOTAL (1)</b>		<b>\$ 385.00</b>			

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Extra Claims	Fee from below	Fee Paid
Total Claims	20 -20** = 0	X =
Independent Claims	3 -3** = 0	X =
Multiple Dependent		=
Large Entity	Small Entity	
Fee	Fee	Fee Description
Code (\$)	Code (\$)	
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	**Reissue independent claims over original patent
1205 18	2205 9	**Reissue claims in excess of 20 and over original patent
<b>SUBTOTAL (2)</b>		<b>\$</b>

\*\*or number previously paid, if greater; For Reissues, see above

### 3. ADDITIONAL FEES

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	130.00
1807 50	1807 50	Processing fee under 37 CFR 1.17(g)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	40.00
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify) _____			
<b>SUBTOTAL (3)</b>		<b>\$ 170.00</b>	

\*Reduced by Basic Filing Fee Paid

## SUBMITTED BY

Name (Print/Type)	Jennifer R. Johnson	Registration No. (Attorney/Agent)	50,784	Telephone: (650) 335-7213
Signature			Date	January 13, 2004

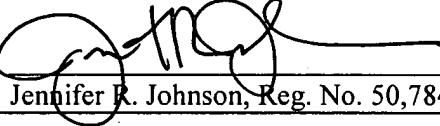
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Shaoher X. Pan, Xiao Yang and Dongmin Chen  
APPLICATION NO.: Unassigned  
FILING DATE: Herewith  
TITLE: Fabrication of a Reflective Spatial Light Modulator  
EXAMINER: Unknown  
GROUP ART UNIT: Unknown  
ATTY. DKT. NO.: 23340-08598

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Patent Application, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Dated: 1/13, 2004

By   
Jennifer R. Johnson, Reg. No. 50,784

MAIL STOP PATENT APPLICATION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**PETITION BY PERSON HAVING PROPRIETARY INTEREST TO FILE  
APPLICATION ON BEHALF OF INVENTOR(S) WHO REFUSE TO SIGN OR  
CANNOT BE FOUND (37 C.F.R. § 1.47(b))**

1. The party having a proprietary interest in the above identified application, signs below and hereby petitions to make this application on behalf of the non-signing inventor, Shaoher X. Pan, who refuses to join in the application.
2. This petition is accompanied by: (i) a showing of sufficient proprietary interest, (ii) proof of the pertinent facts, and (iii) the last known address of the non-signing inventor as set forth in the accompanying STATEMENT OF FACTS

01/16/2004 HMARZI1 00000033 10756923  
130.00 DP  
02 FC:1460

IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R.  
§ 1.47).

3. The fee set forth in § 1.17(h) (\$130.00), required by 37 C.F.R. § 1.47(a), is attached as a check in the amount of \$130.00.

4. The person making this statement is a person authorized to sign on behalf of the owner on the basis of an Employee Invention Assignment and Confidentiality Agreement, a copy of which is attached.

Dated: 119, 2004

By: Dongmin Chen  
Dongmin Chen  
VP of Engineering and CFO  
Miradia, Inc.  
2880 Lakeside Drive, Suite 260  
Santa Clara, CA 95054

23340/08598/DOCS/1403354.1

**PATENT**

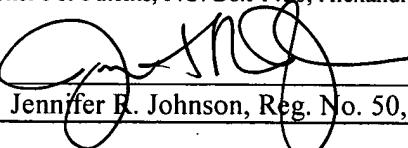
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS: Shaoher X. Pan, Xiao Yang, and Dongmin Chen  
APPLICATION NO.: Unassigned  
FILING DATE: Herewith  
TITLE: Fabrication of a Reflective Spatial Light Modulator  
EXAMINER: Unknown  
GROUP ART UNIT: Unknown  
ATTY. DKT. NO.: 23340-08598

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Patent Application, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Dated: 11/13, 2004

By   
Jennifer R. Johnson, Reg. No. 50,784

MAIL STOP PATENT APPLICATION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**STATEMENT OF FACTS IN SUPPORT OF FILING  
ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)**

Dear Sir:

This Statement of Facts is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of a declaration by the nonsigning inventor, Shoaher X. Pan (hereinafter "Dr. Pan"), for the above-identified patent application before deposit thereof in the U.S. Patent and Trademark Office.

This Statement of Facts is being made by an available person having first-hand knowledge of the facts recited therein.

I, Greg T. Sueoka, am a partner of Fenwick & West LLP, have a business address at 801 California Street, Mountain View, California, 94041, and hereby declare that:

1. I am a patent attorney licensed to practice before the U.S. Patent and Trademark Office (Reg. No. 33,800).
2. I am an attorney of record in the prosecution of the above-referenced patent application for Miradia, Inc., (hereinafter "Miradia"), a Delaware corporation, having a place of business at 2880 Lakeside Drive, Suite 260, Santa Clara, CA 95054. Miradia is entitled to all rights, title, and interest in involving the above-referenced patent application.
3. On December 10, 2003, the articles of incorporation of XHP Microsystems, Inc. (hereinafter "XHP") were amended to change the name of the corporation to "Miradia, Inc." This name change was approved by a shareholder vote. A copy of the amendment is included herewith and identified as EXHIBIT A.
4. At the request of my client, Miradia, Inc., herewith I am filing a utility patent application entitled "Fabrication of a Reflective Spatial Light Modulator," attorney docket number 23340-08598 (hereinafter "the Application"), which is a continuation of and claims the priority benefit of U.S. Patent Application Serial No. 10/378,041 of "Fabrication of a Reflective Spatial Light Modulator," filed February 27, 2003, which patent application claims priority from provisional U.S. Patent Application Serial No. 60/390,389, for "Reflective Spatial Light Modulator," filed June 19, 2002.

11. It is my belief that Dr. Pan is represented by legal counsel, specifically Frederick D. Baron (hereinafter "Mr. Baron") of Cooley Godward LLP, having an address of Five Palo Alto Square, 3000 El Camino Real, Palo Alto, California, 94306.

12. On November 12, 2003, Ms. Lee sent a package (hereinafter "the Package") via Federal Express to Shaoher X. Pan, 1133 Kelez Drive, San Jose, California, 95120. The Package contained copies of the Application, a declaration for the applicant, an assignment for the applicant, an oath and assignment for a corresponding Taiwanese application, and a cover letter asking Dr. Pan to sign and return the documents, and another pre-paid and pre-addressed return Federal Express envelope. The cover letter accompanying the Package requested return of the signed documents by November 19, 2003 and indicated that if we did not receive the documents in response from Dr. Pan by November 19, 2003, that we would consider him unable or unwilling to sign the enclosed documents and would proceed accordingly. The Package was delivered on November 13, 2003. Copies of the cover letter accompanying the Package and a Federal Express Track Shipment Detail document showing that the Package was delivered are attached as EXHIBIT C. Dr. Pan did not return any executed documents or the originals unsigned.

13. On November 19, 2003, Ms. Lee received an e-mail from Dr. Pan indicating that he believed himself to be the sole inventor of the information in the above-referenced application. A copy of that e-mail is attached as EXHIBIT D.

14. On November 25, 2003, Darryl Woo, a partner of Fenwick & West, received a letter from Mr. Baron (hereinafter "Baron Letter") in reference to Dr. Pan, at

5. The Application names four inventors: Shaoher X. Pan (hereinafter "Dr. Pan"), Xiao Yang, Dongmin Chen, and Shoucheng Zhang.

6. Michelle Lee (hereinafter "Ms. Lee"), a patent attorney and partner of Fenwick & West at the time, had discussions with Xiao Yang, an employee of Miradia and co-inventor of the subject matter of the Application. During those discussions, Xiao Yang revealed inventorship of the subject matter of the Application with corrective intent. From those discussions, it is my belief that Dr. Pan is a joint inventor of the subject matter claimed in the above-referenced patent Application. Additionally, it is my belief that Xiao Yang, Dongmin Chen, and Shoucheng Zhang are also joint inventors of the subject matter claimed in the above-referenced patent applications, and all have executed corresponding declarations.

7. It is my belief that Dr. Pan was employed at XHP when he co-invented the subject matter claimed in the above-referenced patent application, and was obligated to assign the claimed subject matter of the above-referenced patent application to XHP.

8. On November 21, 2002, the first day of Dr. Pan's employment with XHP, Dr. Pan executed an Employee Invention Assignment and Confidentiality Agreement with XHP Microsystems, Inc. According to this agreement, Dr. Pan is obligated to assign all inventions during his employment to XHP Microsystems, Inc. A copy of this agreement is included herewith and identified as EXHIBIT B.

9. As of August 22, 2003, Dr. Pan's employment with XHP terminated.

10. It is my belief that Dr. Pan's last known address is 1133 Kelez Drive, San Jose, California, 95120, and last known telephone number is (408) 268-0702.

which time I became aware of representation of Dr. Pan by Mr. Baron. In the Baron Letter, Mr. Baron referenced the aforementioned letter from Ms. Lee and returned the Package Ms. Lee had sent Dr. Pan dated November 12, 2003, with the Application, declaration for the applicant, assignment for the applicant, and oath and assignment for a corresponding Taiwanese application documents unsigned. A copy of the Baron Letter is attached as EXHIBIT E.

15. On December 18, 2003, I sent a letter to Mr. Baron (hereinafter "Sueoka Letter"). The Sueoka Letter referenced the return of the Package documents unsigned and stated that our assumption from that purposeful act and the Baron Letter was that Dr. Pan was refusing to sign them. A copy of the Sueoka Letter is attached as EXHIBIT F.

16. As of January 9, 2004, we have not received any communication from Mr. Baron on behalf of Dr. Pan in response to the Sueoka Letter. To my knowledge, Dr. Pan has not executed a declaration corresponding to the claimed subject matter for the Application submitted herewith and refuses to sign any such declaration.

I hereby declare that all statements made herein to the best of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Dated:

Jan 13, 2004

By:

Greg T. Sueoka

Greg T. Sueoka, Reg. No.: 33,800  
Fenwick & West LLP  
Silicon Valley Center  
801 California Street  
Mountain View, CA 94041  
Tel.: (650) 335-7194  
Fax.: (650) 938-5200

23340/08598/DOCS/1404242.1